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09/222,340	12/28/1998	WILLIAM F. TERRELL	82771.P279	3304

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN  
12400 WILSHIRE BOULEVARD  
7TH FLOOR  
LOS ANGELES, CA 90025

EXAMINER

VAUGHN JR, WILLIAM C

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 04/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/222,340

Applicant(s)

TERRELL ET AL.

Examiner

William C. Vaughn, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

1. This Action is in response to the Amendment and Response received 15 January 2002.
2. The application has been examined. **Claims 1-15** are pending. The objection and rejections are as stated below:

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (Thomas), U.S. Patent No. 6,148,336 in view of Schneider et al. (Schneider), U.S. Patent No. 6,178,505.
5. Regarding **claim 1**, Thomas discloses the invention substantially as claimed. Thomas discloses an apparatus comprising a network interface, through which the apparatus facilitates communication between a client device and a remote device at any of a number of alternative service levels and controller, coupled to the network interface controller [see Thomas, Figure 3, Col. 2, lines 30-67, Col. 3, lines 1-67, Col. 4, lines 1-67, Col. 5, lines 1-24, Col. 7, lines 60-67, Col. 8, lines 1-67]. However, Thomas does not explicitly disclose to dynamically create and remove filters controlling access to the different service levels based, at least in part, on an admission profile.

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6. In the same field of endeavor, Schneider discloses in an analogous art (e.g. secure delivery of information in a network). Schneider discloses to dynamically create and remove filters controlling access to the different service levels based, at least in part, on an admission profile (Schneider teaches that access filters may be added or deleted using the add and delete buttons in a button bar as well as a administrators whom the policy allows for the editing, adding, deleting, and activating or deactivating a particular policy definition), [see Schneider, Col. 24, lines 15-67].

7. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Schneider's teachings of secure delivery of information in a network with the teachings of Thomas, for the purpose of providing only needed authentication and encryption security as a required, for a given user, a given path through the network, and a given resource [see Schneider, Col. 5, lines 67 and Col. 6, lines 1-3], this system further enhances the system of Thomas, in which Thomas provides the motivation to combine by wanting to solve the problem of filtering when only necessary by service providers [see Thomas, Col. 6, lines 34-67]. By this rationale **claim 1** is rejected.

8. Regarding **claim 2**, Thomas-Schneider further discloses wherein the filters, when triggered, initiate an admission control decision preventing allocation of service level resources which are not yet required or authorized [see Thomas, Col. 5, lines 7-22]. By this rationale **claim 2** is rejected.

9. Regarding **claim 3**, Thomas-Schneider further discloses wherein the filters are triggered by information contained within received data packets [see Thomas, Col. 5, lines 7-53]. By this rationale **claim 3** is rejected.

10. Regarding **claim 4**, Thomas-Schneider further discloses wherein the filters are triggered by one or both of packet source information and packet destination information [see Thomas, Col. 9, lines 62-67 and Col. 10, lines 1-5]. By this rationale **claim 4** is rejected.

11. Regarding **claim 5**, Thomas-Schneider further discloses wherein the admission profile is stored in a communicatively coupled remote device [see Thomas, Figure 3]. By this rationale **claim 5** is rejected.

12. Regarding **claim 6**, Thomas-Schneider further discloses wherein the communicatively coupled remote device is a bandwidth broker or other generic policy server [see Thomas, Figure 3 and Schneider, Figures 1-7]. By this rationale **claim 6** is rejected.

13. Regarding **claim 7**, Thomas-Schneider further discloses wherein the admission profile is available locally within the apparatus [see Thomas, Figure 3 and Schneider Figures 1-7]. By this rationale **claim 7** is rejected.

14. Regarding **claim 8**, Thomas-Schneider further discloses wherein the controller establishes an ingress profile in response to detecting an associated trigger event, wherein the ingress profile modifies the received data packets adhering to the filter criteria to denote a particular service level, in accordance with the admissions profile [see Schneider, Col. 33, lines 14-55]. By this rationale **claim 8** is rejected.

15. Regarding **claim 9**, Thomas-Schneider further discloses wherein the controller removes ingress profiles when data packet adhering to the filter criteria are no longer received, liberating apparatus resources [see Schneider, Col. 26, lines 50-67]. By this rationale **claim 9** is rejected.

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16. Regarding **claim 10**, Thomas-Schneider further discloses wherein the controller removes ingress profiles after a predetermined period of time, liberating apparatus resources [see Schneider, Col. 32, lines 39-45]. By this rationale **claim 10** is rejected.

17. Regarding **claim 11**, Thomas-Schneider further discloses wherein the controller removes filters in accordance with a network administration policy [see rejection of **claim 1, supra**]. By this rationale **claim 11** is rejected.

18. Regarding **claim 12**, Thomas-Schneider further discloses wherein the controller removes filters based, at least in part, on time-of-day [see Schneider, Figure 12, Col. 24, lines 61-67]. By this rationale **claim 12** is rejected.

19. Regarding **claim 13**, Thomas-Schneider further discloses a method for controlling provisions of differentiated services in a data network [see Thomas, Col. 2, lines 30-67, Col. 4, lines 48-67, Col. 5, lines 1-54], the method comprising installing a filter on a network edge device to provide a trigger notification upon detecting data packets adhering to filter criteria, in accordance with a network administration policy [see rejection of **claim 1, supra**] and dynamically creating an ingress profiler which polices admission to a particular service level (Thomas teaches that it is well known in the art to apply policies in determining which packets to transmit or delay), [see Thomas, Col. 2, lines 40-45, see also **claim 1, supra**]. By this rationale **claim 13** is rejected.

20. Regarding **claim 14**, Thomas-Schneider further discloses further comprising marking the received data packets adhering to the filter criteria according to a subscribed service level [see Thomas, Col. 6, lines 21-67]. By this rationale **claim 14** is rejected.

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21. Regarding **claim 15**, Thomas-Schneider further disclose wherein the ingress profiler polices admission to a particular service level by allowing only those received data packets adhering to the filter criteria of a particular service level to proceed at that service level [see Thomas, Col. 2, lines 45-65]. By this rationale **claim 15** is rejected.

*Response to Arguments*

22. Applicant's Request for Withdrawal of the Rejection filed on 07 February 2002 has been carefully considered but is not deemed fully persuasive. However, because there exists the likelihood of future presentation of this argument, the Examiner thinks that it is prudent to address Applicants' main points of contention.

A. Applicant contends that the proposition that Schneider discloses dynamic creations and removal of filters is unsupported by the record.

23. Regarding Point A, it is the Examiner's position that that a prima facie case of obviousness was made in Paper 4. Specifically, regarding Applicant's contention that the proposition that Schneider discloses dynamic creations and removal of filters is unsupported by the record. In response that argument, it is the Examiner's position that Thomas-Schneider in combination do in fact disclose dynamically create and remove filters controlling access to the different service levels based, at least in part, on an admission profile. Based upon the well-known teachings within Thomas-Schneider. Thomas teaches that each filter is attached to each plugin. By doing so the filters that are attached to the plugins can be modified, analyzed, deleted [see Thomas, Col. 12, lines 24-60]. Also, Thomas-Schneider teaches multiple filtering policies are established. The plugins have many intended use. These plugins may be used to encrypt all

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packets for security [see Thomas, Col. 13, lines 16]. Thomas-Schneider teaches access filtering policy is established. These policies can be defined and adjusted by an administrator. The administrator also has a policy evaluator that evaluates each policy filter [see Schneider, Col. 24, lines 15-60].

24. Again, it is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to continue to claim as broadly as possible their invention. It is also the Examiner's right to continue to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality that allows for Applicant's invention to overcome the prior art used in the rejection, fails to differentiate in detail how these features are unique. It is advised that, in order to further expedite the prosecution of the application in response to this action, Applicant should amend the base claims to describe in more narrow detail the true distinguishing features of Applicant's claim invention (i.e., Applicant's specification, page 14, lines 1-19, page 17, lines 5-18). As it is extremely well known in the networking art as already shown by Thomas-Schneider and other prior arts of records disclosed, to dynamically create and remove filters controlling access to the different service levels based, at least in part, on an admission profile well as other claimed features of Applicant's invention. Thus, it is clear that Applicant must submit amendments to the claims in order to distinguish over the prior art use in the rejection that discloses different features of Applicant's claim invention.

25. Applicant has had an opportunity to amend the claimed subject matter, and has failed to modify the claim language to distinguish over the prior art of record by clarifying or



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substantially narrowing the claim language. Thus, Applicant apparently intends that a broad interpretation be given to the claims and the Examiner has adopted such in the present and previous Office action rejections. See *In re Prater and Wei*, 162 USPQ 541 (CCPA 1969), and MPEP 2111.

26. Applicant employs broad language, which includes the use of word, and phrases, which have broad meanings in the art. In addition, Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and as reasonably possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993).

27. Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response, and reiterates the need for the Applicant to more clearly and distinctly defines the claimed invention.

#### *Cited Prior Art of Record*

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Radia et al. (Radia), U.S. Patent No. 5,848,233, does disclose dynamic creation and

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removal of filters [see Radia, abstract, Col. 2, lines 3-67, Col. 3, lines 1-67, and Col. 4, lines 1-20].

### *Conclusion*

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (703) 306-9129. The examiner can normally be reached on 8:00-5:00, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (703) 305-4815. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-6306 for regular communications and (703) 308-6306 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9700.

WCV

*WCV*  
*Patent Examiner*  
*Art Unit 2152*  
*April 22, 2002*

  
MARK H. RINEHART  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100